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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/761,569 | 01/21/2004 | John H. King | BU129/0BU34 | 3439 |
| 24350 | 7590 | 05/03/2006 | EXAMINER | |
| STITES & HARBISON, PLLC 400 W MARKET ST SUITE 1800 LOUISVILLE, KY 40202-3352 | | | | ALI, SHUMAYA B |
| ART UNIT | | PAPER NUMBER | | |
| | | 3743 | | |

DATE MAILED: 05/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-----------------|---------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/761,569 | KING, JOHN H. |
| | Examiner | Art Unit |
| | Shumaya B. Ali | 3743 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 3/15/06.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-14 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-14 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.
 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____.
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: detailed action.

Response to Amendment After Final

A request for continued examination under 37 CFR **1.114**, including the fee set forth in 37 CFR **1.17(e)**, was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR **1.114**, and the fee set forth in 37 CFR **1.17(e)** has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR **1.114**. Applicant's submission filed on **3/15/06** has been entered.

Response to Arguments

Applicant's arguments with respect to claims 1-14 have been considered but are moot in view of the new ground(s) of rejection.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. **Claims 1,6,8,12, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luppi US Patent No. 6,792,623 in view of Cowley et al. US Patent No. 4,552,150**
2. Luppi discloses a respirator hood comprising an inflatable neck cuff (44) positioned near positioned near a lower portion of the hood and substantially circumscribing an operating

through which the wearer inserts his head (see fig.6). The inflatable neck cuff being supplied by an air source (41) so as to exert a sealing pressure against the neck of the wearer and prevents the hood from rising up relative to the head of the wearer. Luppi also discloses an overhead channel (8), which defines an air delivery path from an air source. Luppi further discloses an internal exhalation valve (30).

3. Luppi further fails to teach “flexible” hood and “integral” cuff. However, Copwley et al., which also relates to hood, teach flexible hood sealingly affixed (“integral”) to an inflatable collar (see Copwley col.1 lines 44-46 and fig.1). Therefore, it would have been obvious to one of ordinary skills in the art to construct the hood of Luppi flexible so that it inflates, with an integral collar in view of Copwley et al. so that when the collar is inflated, the weight of the reservoir seals the collar around the user’s neck to prevent the entry of smoke or other noxious gases (see Copwley et al. col.1 lines 50-54).

4. **Claims 2-5,9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luppi US Patent No. 6,792,623 in view of Cowley et al. US Patent No. 4,552,150 and in view of James US Patent No. 5,283,914.**

5. Combination of Luppi and Cowley et al. disclose the claimed invention as discussed above with the exception of a lens and multiple overhead channels. However, James, which also relates to a respirator hood, discloses that it is known to include multiple overhead channels, which are directed towards the lens of the respirator hood. Thus, it would have been obvious to one of ordinary skills in the art to modify the respirator hood of Luppi, to include a lens and multiple overhead air channels (James Fig.2) as taught by James for the purposes of providing

means for introducing a filtered air supply between the wearer's face and the lens of a visor (see James col.1).

6. Combination of Luppi and Cowley et al. disclose the claimed invention as discussed above with the exception of an air reservoir for receiving air from the air source and then distributing air to the inflatable neck cuff and said one or more overhead channels (applicant is reminded that recitation of intended use is not given any patentable weight). However, Cowley et al teach an annular reservoir for containing a supply of pressurized oxygen gas positioned on the collar (see fig.1, col. 1 lines 45-48). Therefore, it would have been obvious to one of ordinary skills in the art at the time the invention was made to include an air reservoir to the hood of Luppi in view of Cowley et al for the purposes of containing a supply of pressurized oxygen as taught by Cowley et al (see col.1 lines 45-48).

7. **Claims 7 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luppi US Patent No. 6,792,623, Cowley et al. US Patent No. 4,552,150, and further in view of Grizard French Patent No. 2,614,538.**

8. the combination of Luppi and Cowley et al disclose the claimed invention as discussed above with the exception of a pull-away exhalation valve. However, Grizard, which also relates to a respirator hood, discloses a pull-way exhalation valve (figs.5-6, valve 17). Therefore, it would have been obvious to one of ordinary skills in the art based upon the teachings of Grizard to modify the hood respirator of Luppi to utilize a pull-way exhalation valve for the purposes of providing a more compact and efficient device.

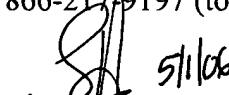
Claim Objection

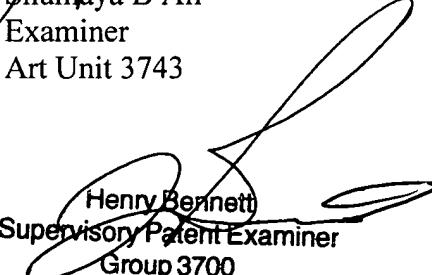
Claim 1 is objected to for minor informalities: limitation “integral” is considered vague. It is not clear to what structure(s) the neck cuff is integral. Applicant is requested to review the claim language and make appropriate corrections.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shumaya B. Ali whose telephone number is 571-272-6088. The examiner can normally be reached on M-F 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett can be reached on 571-272-4791. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Shumaya B Ali
Examiner
Art Unit 3743


Henry Bennett
Supervisory Patent Examiner
Group 3700